

Application No: 10/665,687 Docket No.: Q137-US6

Page 6

REMARKS

Claims 1-42 and 46-66 are canceled. Claims 43-45, and 67-87 were previously presented. Accordingly, claims 43-45, and 67-87 are pending examination.

Rejection of Claim 43 Under 35 USC §103

Claims 43 stands rejected under 35 USC §103(a) as being unpatentable over U.S. Patent No. 5,501,916 (Teramoto) in view of U.S. Patent No. 6,399,242 (Kitoh) and U.S. Patent No. 3,159,508 (Chreitzberg).

To support the pending rejection, the Office Action relies on Teramoto's Figure 9 as described in example 2. The Office Action then argues that "it would have been obvious to one of ordinary skill in the art to use flexible conductive tabs to electrically attach the negative electrode to the second battery lid such that the tab is only immobilized at a second location past the center point from the first location of the cap in the battery of Teramoto, et al., as taught by Kitoh et al. and Chreitzberg." However, electrically attaching the negative electrode to Teramoto's "second battery lid" would result in a shorted battery. Further, both Kitoh and Chreitzberg teach that a terminal connects a cap to the "tabs" cited in the Office Action. The only terminal that is present at Teramoto's "second battery lid" is also "electrically attached" to the positive electrode. As a result, this arrangement would also result in a shorted battery.

Since **"the proposed modification cannot render the prior art unsatisfactory for its intended purpose"** (heading of MPEP 2143.01) and a shorted battery is clearly unsatisfactory for its intended purpose, claim 43 is patentable over the cited art.

Rejection of claims 44-45, and 67-87

Claims 44-45, and 67-87 each depends directly or indirectly from independent claim 43. Since claim 43 is believed to be in condition for allowance, these claims are also believed to be in condition for allowance.

Application No: 10/665,687 Docket No.: Q137-US6

Page 7

CONCLUSION

Applicant submits that the claims define patentably over the prior art and that this application is in condition for allowance. Accordingly, favorable consideration and allowance of this application is courteously requested.

The Examiner is encouraged to telephone the undersigned with any questions.



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